

Gary Lee Nelson, Jr. and Donna Nelson d/b/a Custom Trim and United Brotherhood of Carpenters and Joiners of America, District Council of Kansas City and Vicinity, AFL-CIO.
Case 17-CA-17347

March 31, 1995

SUPPLEMENTAL DECISION AND ORDER

BY CHAIRMAN GOULD AND MEMBERS STEPHENS
AND BROWNING

On August 30, 1994, the National Labor Relations Board issued a Decision and Order,¹ *inter alia*, ordering the Respondent, Gary Lee Nelson, Jr. and Donna Nelson d/b/a Custom Trim, to make all required contributions to the various fringe benefit funds on behalf of the unit employees, and make whole the unit employees for any loss of benefits or expenses resulting from its unlawful failure to do so since October 21, 1993. On December 29, 1994, the United States Court of Appeals for the Sixth Circuit enforced the Board's Order.

A controversy having arisen over the amount of fringe benefit fund payments due, on January 23, 1995, the Regional Director for Region 17 issued a compliance specification alleging the amounts due under the Board's Order, and notifying the Respondent that it should file a timely answer complying with the Board's Rules and Regulations. Although properly served with a copy of the compliance specification, the Respondent failed to file an answer.

By letter dated February 10, 1995, counsel for the General Counsel advised the Respondent that no answer to the compliance specification had been received and that unless an appropriate answer was filed by March 6, 1995, summary judgment would be sought. The Respondent filed no answer.

On March 13, 1995, the General Counsel filed with the Board a Motion for Summary Judgment on the compliance specification for failing to file an answer, with exhibits attached. On March 15, 1995, the Board issued an order transferring the proceeding to the Board and a Notice to Show Cause why the motion should not be granted. The Respondent again filed no

response. The allegations in the motion and in the compliance specification are therefore undisputed.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

Ruling on the Motion for Summary Judgment

Section 102.56(a) of the Board's Rules and Regulations provides that the Respondent shall file an answer within 21 days from service of a compliance specification. Section 102.56(c) of the Board's Rules and Regulations states:

If the respondent fails to file any answer to the specification within the time prescribed by this section, the Board may, either with or without taking evidence in support of the allegations of the specification and without further notice to the respondent, find the specification to be true and enter such order as may be appropriate.

According to the uncontroverted allegations of the Motion for Summary Judgment, the Respondent, despite having been advised of the filing requirements, has failed to file an answer to the compliance specification. In the absence of good cause for the Respondent's failure to file an answer, we deem the allegations in the compliance specification to be admitted as true, and grant the General Counsel's Motion for Summary Judgment. Accordingly, we conclude that the amounts of fringe benefit fund payments due are as stated in the compliance specification and we will order payment by the Respondent of the amounts, plus interest accrued on the amounts to the date of payment.

ORDER

The National Labor Relations Board orders that the Respondent, Gary Lee Nelson, Jr. and Donna Nelson d/b/a Custom Trim, Hendersonville, Tennessee, its officers, agents, successors, and assigns, shall make whole the unit employees by paying the fringe benefit funds the following amounts, plus interest:

Health & Welfare Fund	\$1,485.90
Pension Fund	1,562.10
Apprentice/Education Fund	114.30

¹ 314 NLRB 940.